

STATE OF VERMONT
SUPERIOR COURT CIVIL DIVISION

CHITTENDEN COUNTY

DOCKET NO. 127-2-18

CnCV

ANDREW HOLLINS
PLAINTIFF

VERMONT SUPERIOR COURT
FILED

v.

FEB - 5 2018

SOUTH BURLINGTON POLICE DEPT
OFFICER, SEAN POPE
OFFICER, MICHAEL DEFIORE
DEFENDANT(S)

Chittenden L

RECEIVED
BURLINGTON, VT

SEP 24 2018
2:18-cv-151

CLERK'S OFFICE
U.S. DISTRICT COURT

ACTION

NOW COMES, THE PLAINTIFF ANDREW HOLLINS PRO-SE AND HERBY FILES THIS 42 U.S.C SECTION 1983 ACTION AGAINST DEFENDANT THE SOUTH BURLINGTON POLICE DEPARTMENT OF THE STATE OF VERMONT, POLICE OFFICERS SEAN POPE AND MICHAEL DEFIORE FOR VIOLATIONS OF THE PLAINTIFF CIVIL RIGHTS UNDER ARTICLE ELEVEN OF THE VERMONT STATE CONSTITUTION AND THE PLAINTIFFS FOURTH AMENDMENT RIGHT UNDER THE UNITED STATES CONSTITUTION FOR UNREASONABLE AND ILLEGAL SEARCH AND SEIZURES. AND FOR THE UNLAWFUL IMPRISONMENT WHICH HAS VIOLATED THE PLAINTIFF EIGHT AMENDMENT RIGHT AGAINST CRUEL AND UNUSUAL PUNISHMENT.

(2) OF 10

(Continued)

OFFICERS POPE AND DEFIORE WERE ACTING UNDER THE COLOR OF STATE LAW WHEN THEY VIOLATED THE PLAINTIFFS CIVIL AND CONSTITUTIONAL RIGHTS. THIS 42 U.S.C. 1983 ACTION IS BEING FILED AGAINST THE DEFENDANTS IN THEIR OFFICIAL CAPACITY AND IN THEIR INDIVIDUAL CAPACITY. THE PLAINTIFF SEEKS FOR INJUNCTIVE RELIEF IN THE DEFENDANTS OFFICIAL CAPACITY AND PUNITIVE AND COMPENSATORY DAMAGES IN THEIR INDIVIDUAL CAPACITY FOR THE VIOLATIONS OF THE PLAINTIFF CONSTITUTIONAL PROTECTIVE RIGHTS UNDER THE UNITED STATES AND THE VERMONT STATE CONSTITUTION. THE PLAINTIFF ALSO BRINGS THE 42 U.S.C. 1983 CLAIM AGAINST THE SOUTH BURLINGTON POLICE DEPARTMENT FOR FAILURE TO PROPERLY TRAIN DEFENDANT POPE AND DEFENDANT DEFIORE.

JURISDICTION

THIS COURT HAS JURISDICTION OF THE PLAINTIFFS CLAIMS AGAINST THE DEFENDANT PURSUANT TO RULE (a) OF THE VERMONT RULES OF CIVIL PROCEDURE. SEE: MAINE V. TITAN STOT, 488 U.S. 1, 3, N.1, 100 S.CT 2502, 65 L. ED. 2d 563 (1989).

(3) JFD

CAUSE OF ACTION

- ① ON DECEMBER 16, 2017, THE PLAINTIFF WAS SITTING IN A CAR AND COULD NOT ANY longer state to a City of South Burlington, Vermont parked.
- ② THE PLAINTIFF LEFT his parking space to walk to the intersection road leading to the strip mall bus station to get one of his own car to take him home. At approximately 8:00 AM he was stopped by a police officer.
- ③ DEFENDANT OFFICER JAMES HOPE CAME TO THE VEHICLE AND ASKED THE PLAINTIFF TO SHOW HIM HIS ALMEDINA DJUZO FOR HIS LICENSE AND REGISTRATION.
- ④ AT NO POINT DID DEFENDANT POPE EXPLAIN THE REASONS AS TO WHY HE HAD PULLED THE CAR OVER.
- ⑤ THE PLAINTIFF NOR THE DRIVER HAD AT NO POINT PRESENTED ANY ELEMENT OF ANY CRIMINAL ACTIVITY OR WRONG DOING BEFORE OR AFTER THE PULLOVER BY DEFENDANT POPE.

40 P.M.

- (6) THERE WAS NO JUSTIFICATION OR
REASONABLE FACTS FOR DEFENDANT
POPE OR POPE THE CAR DOWN, THEREFORE
MOTION TO REMOVE THE CAR AFTER
DEFENDANT POPE INSTEAD, THE PLAINTIFF
PROPOSED MOTION WILL SUPPORT, LEGAL
AND IMMEDIATELY.
- (7) THE LAW CLEARLY STATES WHILE AN OFFICER
HAS REASONABLE SUSPICION OF CRIMINAL
ACTIVITY, THE OFFICER MAY BELIEVE CRIME
THE INDIVIDUAL IS INVOLVED IN
PRACTICALLY ANYTHING THAT CAN BE
REGARDED AS A CRIME, AND THE
SEARCH AND SEIZURE MUST BE BASED ON
SPECIFIC AND TACTICALLY ACTIVITY AND
NOT ON AN OFFICER'S INCHARGE AND
UNPARTICULARIZED SUSPICION OR HUNCH.
- (8) DEFENDANT POPE HAS NOT PROVIDED
PLAINTIFF ANY FACT OF REASONABLE
SUSPICION OR CRIMINAL ACTIVITY AND
WANTS OBTAIN BY TAKING A STOP. PLAINTIFF
HAS CLEARLY STATED THAT A REASONABLE
SEARCH AND SEIZURE MUST BE BASED ON
SPECIFIC AND ANTICULABW FACTS AND
NOT ON AN OFFICER'S INCHARGE AND
UNPARTICULARIZED SUSPICION OR HUNCH.

(5) OF (1)

- (9) WHEN DEFENDANT POPE PULLED THE PLAINTIFF OVER WITHOUT PROPER JUSTIFICATION FOR THE STOP, DEFENDANT POPE VIOLATED THE PLAINTIFF'S CONSTITUTIONAL PROTECTED RIGHTS SET FORTH IN THE VERMONT STATE CONSTITUTION AND THE UNITED STATES CONSTITUTION.
- (10) AFTER THE UNREASONABLE SEARCH AND SEIZURE CONDUCTED BY DEFENDANT POPE, DEFENDANT POPE ACCUSED THE PLAINTIFF OF DRIVING WHILE HIGH ON MARIJUANA, THE DEFENDANT THEN FORCED THE PLAINTIFF TO PLEAD GUILTY TO THIS CHARGE.
- (11) NOW PRIOR TO THE TRAFFIC STOP CONDUCTED BY DEFENDANT POPE, DEFENDANT DEFENDANT PASSED THE PLAINTIFF AND THE OWNER OF THE VEHICLE RUMJOHN DIED ON WOODWARD STREET IN SOUTH BURLINGTON, VERMONT.
- (12) AGAIN, AT NO TIME DID DEFENDANT DEFENDANT SEE THE PLAINTIFF OR DEFENDANT ACT IN ANY CRIMINAL MANNER OR DO ANY SOMETHING AND BEING DOING TO JUSTIFY A STOP.

(60F ⑩)

(13) Yet Defendant Deftone Radios In
to Defendant Pope Requesting that
He Hold a "48 hr" Fug Vehicle that
WAS OCCUPIED BY PLAINTIFF. DEFENDANT
DEFONTE RADIATED IN THIS TRANSMISSION
WITHOUT ANY REASONABLE SUSPICION OR
GROUNDS WHICH VIOLATED PLAINTIFF RIGHTS.

(14) In That Same Defendant DEFTONE
WANTED DEFENDANT Pope by CONDUCT
A UNREASONABLE TRAFFIC STOP ON PLAINTIFF
VEHICLE WITHOUT ANY JUSTIFICATION OR
CAUSE WHICH ALSO VIOLATED PLAINTIFF'S
CONSTITUTIONAL PROTECTION RIGHTS.

(15) THE PLAINTIFF WAS THEN PULLED OVER
AT THE JIFFY MART GAS STATION ON
WILLOWBROOK ROAD IN SOUTH BURLINGTON,
VERMONT BY DEFENDANT Pope.

(16) Officer Pope pulled the car over and
RADIATED OFFICER Deftone with CAR
to the Area Relatively Away.

(17) Officer Pope then APPROACHED the
VEHICLE ASKED THE DRIVER ALMEDINA DIZZO
FOR HER LICENSE AND REGISTRATION WHICH
SHE COMPLIED, THEN HE ASKED PLAINTIFF

(CONTINUOUS)

(17) FOR HIS IDENTIFICATION WHICH HE COMPLIED; THEN IMMEDIATELY AFTERWARDS DEFENDANT Pope ASKED THE DRIVER TO EXHIBIT THE VEHICLE TO SPARK TO HIM PRIVATELY. DEFENDANT Pope THEN BEGAN ASKING THE DRIVER ABOUT PLAINTIFF.

(18) DEFENDANT Pope ASKED DRIVER ALICIA OTUZO "WHO IS THIS GUY TO YOU?" "HOW LONG HAVE YOU KNOWN HIM?" "DID YOU AND HIM COME BY VEHICLE TOGETHER?" THEN DEFENDANT Pope AROUND HER TO GET BACK IN CAR.

(19) THEN DEFENDANT Pope ASKED PLAINTIFF TO EXIT THE VEHICLE. DEFENDANT Pope THEN SEARCHED PLAINTIFF AND FOUND NO ILLEGAL ITEMS ON PLAINTIFF BUT BEGAN ASKING PLAINTIFF A SERIES OF QUESTION NONE WHICH PERTAIN TO WHY THE PLAINTIFF VEHICLE IN WHICH HE OCCUPIED WAS BEING PARKED OVER.

(20) WHEN A 3RD OFFICER ARRIVED AT THE SCENE A REQUEST TO SEARCH THE CAR WAS MADE AND THE OFFICER PULLED OUT A CONSENT FORM TO SEARCH THE VEHICLE. THE PLAINTIFF DID NOT HAVE ANY KNOWLEDGE OF ANY ILLEGAL

8 of 11

(Continued)

- (20) ITEMS IN THE VEHICLE AND WAS NOT IN POSSESSION OF ANY INDIVIDUAL HAVING SO BEEN GRANTED BY CONSENT TO THE SEARCH.
- (21) IN RESULT, THERE WERE ILLEGAL ITEMS FOUND. THESE ITEMS WERE FOUND UNDER THE DRIVER AURORA DJ020 SUB, THE DRIVER WHO WAS THE SOLE OPERATOR AND WHO HAD LEGAL POSSESSION OF THE VEHICLE.
- (22) AURORA DJ020 WAS ALSO FOUND ACCORDING TO Officer Pope, SHE WAS DRIVING THE VEHICLE. SHE WAS ALSO FOUND DRIVING THE VEHICLE WITH NO LICENSE AND IN THIS THE ILLEGAL ITEMS FOUND WITHIN.
- (23) WHEN OFFICER DEPARE DIDNT HAVE REASONABLE CAUSE TO REQUEST OFFICER POPE TO CONDUCT THE TRAFFIC STOP AND WHEN OFFICER POPE HIMSELF LACKED REASONABLE CAUSE BEFORE CONDUCTING THE TRAFFIC STOP. THE TRAFFIC STOP WAS DONE IN A MANNER THAT CAN ONLY BE EXPLAINED AS UNLAWFUL.
- (24) WHEN THE VEHICLE WAS SEARCHED WITH NO SHOWING OF WRONG DOING OR CRIMINAL

(9) OF 11

(CONTINUED)

(24) ACTIVITY FROM EITHER THE PLAINTIFF OR THE DRIVER. THE OFFICERS, DEFENDANTS POPE AND DEFORE VIOLATED THE PLAINTIFF AND THE DRIVERS CONSTITUTIONAL PROTECTED RIGHTS SET FORTH IN THE 11TH AMENDMENT OF THE VERMONT STATE CONSTITUTION AGAINST UNREASONABLE SEARCH AND SEIZURE. THE DEFENDANTS ALSO VIOLATED THE PLAINTIFFS CONSTITUTIONAL PROTECTED RIGHTS SET FORTH IN THE 4TH AMENDMENT OF THE UNITED STATES CONSTITUTION AGAINST UNREASONABLE SEARCH AND SEIZURE.

(25) AFTER THE DEFENDANTS VIOLATED THE PLAINTIFFS CIVIL RIGHTS IN REGARDS TO THE UNREASONABLE SEARCH AND SEIZURE THE DEFENDANTS PUT THE PLAINTIFF IN PRISON, THIS CAN ONLY BE SEEN AS AN "ILLEGAL IMPRISONMENT". WHEN THE DEFENDANT TOOK THE PLAINTIFFS LIBERTY OF FREEDOM IN AN ILLEGAL WAY, THEY VIOLATED THE PLAINTIFFS RIGHTS AGAINST "CRUEL AND UNUSUAL PUNISHMENTS" THAT ARE SET FORTH IN THE UNITED STATES CONSTITUTION 8TH AMENDMENT.

(26) THE PLAINTIFF BRINGS HIS CLAIM AGAINST THE SOUTH BURLINGTON POLICE DEPARTMENT

(Continued)

(26) For the failure to properly train Defendants Pope And Officer.

(27) THE PLAINTIFF ASSERTS THAT THE COLOR OF HIS SKIN IS WHAT PUT THE WHOLE TRAIN OF EVENTS INTO EFFECT AND THAT THE PLAINTIFF AND HIS HUSBAND WERE TARGETED BY THE DEFENDANTS POPS AND OFFICER ON THOSE GROUNDS.

RELIEF SOUGHT BY THE PLAINTIFF FROM DEFENDANT

INJUNCTIVE INJUNCTIVE RELIEF

(1) THE PLAINTIFF ASKS THE COURT TO MANDATE THAT IF IN THE FUTURE IF THE PLAINTIFF AND DEFENDANTS POPE OR OFFICER ARE INVOLVED IN ANY TYPE OF INTERACTION THAT THE DEFENDANTS REMOVE THEMSELVES FROM THE LOCATION AND CALL FOR A THIRD PARTY TO ADDRESS THE CONCERN.

FURTHER RELIEF SOLVING COMPENSATORY AND PUNITIVE DAMAGES

(1) FOR THE DEFENDANTS VIOLATIONS OF THE PLAINTIFFS 4TH, 11TH, AND 8TH AMENDMENT RIGHTS THE PLAINTIFF SEEKS \$250,000 DOLLARS. FOR THE DEFENDANTS KNOWINGLY

(11) OF (11)

(continued)

① CONDUCTED AND REGULAR TRAFFIC STOP
AND MADE AN UNREASONABLE SEARCH AND
SEARCHED WITHIN THE SURROUNDING AREA WHICH
EXCEEDED WITHIN THE LAW AND IN
THE DEFENDANT'S POLICY AND PROCEDURES
BUT LEAVE DISRESPECTED AND THE PLAINTIFF
WAS TAKEN OUT OF THE COLOR OF HIS SKIN.

THE Plaintiff, the Plaintiff Has long time
been a citizen of the State of Vermont or the
plaintiff in the circumference of Jefferson And
Grant and does believe that the Plaintiff
feels that Plaintiff FF IS ENTITLED TOO.

Respectfully Submitted By

x Andrew Hollings
Northwest State Corn Farm
3649 Lower Newton Road
Swanton, VT 05488

DATE: 2/1/18

x Aaron Felling